

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

NEAL LOEHRKE,

Plaintiff,

v.

Case No. 10-C-254

BOARD OF EDUCATION et al.,

Defendants.

---

**ORDER REMANDING CASE**

---

On March 25, this case was removed to federal district court from Waupaca County. Because the removal papers indicated some degree of immediacy, the case was scheduled for a hearing on March 29. Since the scheduling of that hearing, it has come to the Court's attention that Plaintiff has filed a motion to remand on the grounds that he intends to abandon his federal claim. He has also filed an amended complaint, which is captioned for the state court and is either filed there or will be. The issues involved in the March 29 hearing – the dissolution of a state court's TRO – involved issues of state, rather than federal, law. The federal claim, which was pled in the original state court complaint but not the subject of the TRO, was the only conceivable basis for this Court's removal jurisdiction.

Although Plaintiff has not yet filed a motion to amend the complaint in this Court, I may construe his filing – the motion to remand, as well as the amended state court complaint – as a motion to dismiss his federal claim. Accordingly, the federal claim is **DISMISSED**. Because the federal claim was the sole basis for this Court's subject matter jurisdiction, the motion to remand

is **GRANTED** and the case is **REMANDED** to Waupaca County Circuit Court. The March 29 hearing in this Court is cancelled.

**SO ORDERED** this 26th day of March, 2010.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge